

Date/Time Filed with Registrar of Regulations	VA.R. Document Number: R_____ - _____
	Date of Publication in Virginia Register:

Commonwealth of Virginia

RESPONSE TO PETITION FOR RULEMAKING

Check one: ☐ Initial Agency Notice ☒ Agency Decision

Regulatory Coordinator: Leon E App

Telephone: (804) 786-4570

E-mail: leonapp@dcr.state.va.us

Agency Name: Virginia Department of Conservation and Recreation

Chapters affected:

VAC No. (e.g., 4 VAC 20-490):	Chapter Name (e.g., Regulations Pertaining to Sharks):
4 VAC 5-30-200	Virginia State Park Regulations - Section on Firearms

Statutory Authority: § 10.1-104 of the Code of Virginia

Name of petitioner: Mike McHugh, President, Virginia Gun Owners Coalition

Nature of petitioner's request: The petitioner is requesting the Department of Conservation and Recreation to repeal 4 VAC 5-30-200 thus allowing open carry unless otherwise restricted by law.

INITIAL AGENCY NOTICE

Agency's plan for disposition of the request:

NOTE: All written comments submitted must reference the specific petition to which they are responding. This petition is the "McHugh Petition - A".

Written comments may be sent to the Regulatory Coordinator at: Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Comments may be e-mailed to the Regulatory Coordinator at: regcord@dcr.state.va.us.

Comments may be faxed to the Regulatory Coordinator at: (804) 786-6141.

The agency shall issue a written decision to grant or deny the petitioner's request within ninety days (March 8, 2003) following the close of the comment period.

Comments may be submitted until December 9, 2002 at 5 p.m.

AGENCY DECISION

☐ Request Granted

☒ Request Denied

Statement of reasons for decision: It is the Department's determination not to pursue a regulatory action to allow the open carry of firearms in State Parks. This determination is based on the following information:

1) The Department has already recently completed (effective February 12, 2003) a regulatory action as directed by the Governor (in accordance with a recent Attorney General's Opinion) to amend the Department's State Parks Firearms Regulation (4 VAC 5-30-200) to allow for the carrying of concealed handguns within State Parks by holders of a valid Concealed Handgun Permit issued pursuant to § 18.2-308. The Department has concluded that no further action is needed at this time. Restrictions on Firearms in State Parks have been part of the Virginia Administrative Code or Department Regulation since at least 1965 and probably since the State Park System was created in 1936.

2) Felony incident statistics for State Park properties indicate that State Parks are safe.

YEAR	Recorded Attendance	Number of Felony Incidents
1999	5.9 million	13
2000	6.3 million	19
2001	7.0 million	9

(Only 4 of these crimes were against a person and the only one involving a firearm was an airgun incident.)

3) A complete survey of other state park systems across the nation indicates that 42 states or 84% do not allow the open carry of firearms outside of lawful hunting or law enforcement situations.

4) Possession or use of firearms or other weapons in all National Park System (NPS) areas is prohibited (except as otherwise provided). With rare exception (such as times when controlled hunting is allowed) weapons are to be dismantled completely and cased while visiting in NPS areas in the United States. In order to transport weapons through NPS areas they must be dismantled and adequately cased or packed in such a way as to prevent their use. Loaded weapons are subject to confiscation by park authorities.

5) Of the 1,228 responses received during the open comment period, 489 were against altering the regulation as petitioned and 739 supported the petitioned change. A summary of the comments received is as follows:

Against Open Carry

Respondents opposed to the petitions noted that they would fear for their safety and the safety of others if open carry were allowed and many alluded to the fact that they would stop visiting, vacationing, or volunteering at the parks. Some noted that the children of Virginia should be able to play without fear of gunfire in their playgrounds, campgrounds and picnic areas. Responses noted that open carrying of all types of firearms in a Virginia State Park fails to consider the effect on families, youth groups, church or civic organizations which look to Virginia State Parks as a safe haven. Others mentioned school regulations that prohibited field trips to locations where the "open carry" of firearms is allowed. They noted that the purpose and mission of parks is for education, recreation, family orientation, and conservation, and the repeal of the regulation would adversely affect these values.

Respondents stated that regulations were designed and enacted for the general welfare, not

the welfare or self-preservation of the individual to the exclusion of public safety. Safety concerns were raised by several individuals that live adjacent to state parks.

Those responding suggested that visitors would be offended or intimidated by seeing a person openly carrying a firearm for no apparent purpose and stated that the presence of a gun adds the risk of accidental shootings. They also suggested that guns have the potential for introducing violent people-to-people crimes into state parks. Others reasoned that the carrying of guns in state parks would increase the need for law enforcement in state parks. It was noted that the current regulation gives visitors confidence through the fact that the violent incidents in the state parks and natural areas over the years have been negligible in number. They stated that State Parks are not hot-beds of crime and do not cry out for extreme measures of self-defense. Respondents stated that openly carried and holstered firearms have no place in Virginia State Parks other than on duly appointed and recognized local, state and federal law enforcement.

Respondents observed that it is impossible to distinguish a “law-abiding citizen” from a person with criminal intentions; thus, many people will, quite naturally, be placed in fear by the presence of another person carrying a gun. They felt that visitors to our state parks must have complete confidence that they can enjoy our parks without concern about the potential for gun violence. They noted that there are other non-lethal ways of self protection. They also noted that wildlife is not a threat to visitors, regardless of the sensationalism that the media uses to portray wildlife.

Supporting Open-Carry

Respondents supporting the petitions cited that any restriction on the possession and bearing of firearms is a violation of the U.S. Constitution’s Second Amendment. They suggested that any public area with gun restrictions prevents law-abiding citizens from defending themselves and makes them easy pickings for those with criminal intent. Many noted a need and right to carry firearms for their individual protection and that of their families due to the remoteness of some areas of state parks where there are no phones and no cellular service in the event you need to call for help. Others noted a desire to protect themselves from aggressive wildlife including bears, rabid dogs, raccoons or coyotes or to deter criminals and aggressive or drunk people. They also noted that since laws exist to govern the proper use of firearms such as brandishing or discharge, there is no need to deny the right of open carry for self-defense.

Respondents reported that crime rates go down where law-abiding citizens are permitted to carry a firearm and that states with tight restrictions of the private carrying of firearms have increased violent crime. They also noted a study that concluded that there was no evidence that any gun law or combination of gun laws had reduced the incidence of crime.

Agency Contact for Further Information:

Name: Leon E. App

Title: Acting Deputy Director

Address: Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219

Telephone: (804) 786-6124

Fax: (804) 786-6141

Toll Free: 1- -

E-mail: regcord@dcr.state.va.us

Date Submitted: March 7, 2003

Name of Authorized Officer: Leon E. App, Acting Deputy Director, DCR

Signature of Authorized Officer:
